

**CITY OF NEWARK  
DELAWARE**

**PLANNING COMMISSION  
MEETING MINUTES**

**MEETING CONDUCTED REMOTELY  
VIA GO-TO-MEETING**

**January 5, 2021**

**7:00 p.m.**

Present at the 7:00 p.m. meeting:

**Chairman:** Will Hurd

**Commissioners Present:** Karl Kadar  
Alan Silverman  
Tom Wampler  
Allison Stine

**Commissioners Absent:** Stacy McNatt

**Staff Present:** Mary Ellen Gray, Planning and Development Director  
Mike Fortner, Planner  
Thomas Fruehstorfer, Planner  
Paul Bilodeau, City Solicitor

Mr. Will Hurd called the Planning Commission meeting to order at 7:00 p.m.

**1. Chair's remarks.**

Chairman Hurd: Good Evening everyone and welcome to the January 5, 2021 City of Newark Planning Commission Meeting. This is Will Hurd, Chair of the planning commission. We are following the State and Council directives on remote meetings and holding this meeting to the GoTo Meeting platform. Our goal is to support the participation of everyone in this meeting. Angela Conrad our Administrative Professional is the organizer for this meeting and will be managing the chat and the general meeting logistics. At the beginning of each agenda item I will call on the related staff member or applicant to present first. Once the presentation is complete, I will call on each Commissioner on rotating alphabetical order to offer their comments. If the Commissioner has additional comments, they would like to add afterwards they can unmute themselves and I will call on them to make it clear who is speaking next. Angela will be keeping all of the attendees on mute to prevent background noise and echo. Please try to avoid talking over other people so that everyone listening can hear clearly. In accordance to the Governors declaration on remote meetings everyone giving public comment needs to identify themselves. When we have public comment, we'll first read the record comments received by email prior to the meeting. If members of the public would like to comment on the agenda item during the meeting they should send a message to the chat function with their name, district or address and which agenda item they wish to comment on. The chat window is accessed by clicking on the speech bubble icon on the top bar. For those attendees only connected to the meeting only by their phone and I see at least one, I will call on you separately when it comes time you can press\*6 on the keypad to unmute yourself. We can see that you have unmuted, and we can call on you for your comments. If there are any issues during the meeting, we may adjust these guidelines if necessary. The first thing I would like to get the commission's approval to adjust the agenda and move item #5 the 141 East Main Street before the 132 East Main Street Project. John Tracey is also presenting tonight at the county board and needs a little extra time to join us. So, do I have approval? Any disagreements? Okay, by acclamation I will say that we have adjusted the agenda.

49 I would like to also thank Director Gray for gifting me with my own gavel. It was a totally  
50 unexpected and gratefully received gift and I plan to use it every chance I get. Which brings us to  
51 item 2.

52 **2. The minutes of the November 3 Planning Commission Meeting.**

53 The minutes of the November 3<sup>rd</sup> and the December 1<sup>st</sup> planning commission. The December 1<sup>st</sup>  
54 minutes are still being worked on, but we have before us the November 3<sup>rd</sup> minutes. Do we have  
55 any comments or corrections on the minutes to the commissioner? Alright, I am seeing none. I  
56 will say the minutes are approved by acclamation. OK, , hold on, I'm gaveling. I love gaveling.

57 **3. Review and consideration For the Steering Committee for the comprehensive plan 5 review**  
58 **and update.**

59 Mike Fortner: Hi. Good evening Chairman and Planning Commissioners. In your packet you have  
60 the report for the Steering Committee which has the members that have so far agreed to be on  
61 the committee for your review and hopefully your approval. We still have a University person  
62 that we will fill and give you that name, probably at the next meeting. We had our first meeting  
63 on December 15<sup>th</sup>. It was sort of like just an organizational meeting. A PowerPoint presentation  
64 that I gave is attached to your report. It was via by GoTo Meetings and there will be minutes to  
65 the meeting. There will be transcript meetings just like Planning Commission meetings minutes.  
66 Of course, we will have a back log until we have Ann aboard. So, it's going to be a little while  
67 before we start getting the minutes all prepped but the meeting was also recorded so we will  
68 have that, too. The next meeting is set for January 26<sup>th</sup>. It will be appoint a chairperson at that  
69 meeting or set a chairperson and we will probably go over the first few chapters. I will prepare  
70 material for that later this month for the kind of, basically start working through it. There is a  
71 committee that you see on the screen right there. Composed of residents, a diverse range of  
72 residents from all different kinds of walks of life like in the plan for planning. I think it's a very  
73 diverse committee. It has a student representative, a representative from developers, very  
74 knowledgeable residents. We do outreach to people that have not, normally, participated in our  
75 meetings before are also on this committee. I think it is a very good committee that meets the  
76 objectives of the plan for planning that was approved in October. I think that covers everything.  
77 Is there any questions that you have or any other discussions?

78 Chairman Hurd: Thank you. Yeah, no, I was pleased to see several names of people that I didn't  
79 recognize. I think you guys, I commend you guys for doing a really good job of reaching out and  
80 getting, as we said, people who have not been involved in the process before to be engaged here.  
81 I think that is going to be really crucial. Two things on my mind. One is that we had talked about  
82 having two Commissioners upon this commission or committee and I wanted to see if there were  
83 any volunteers from the body for this role. No, okay. Then I will probably be joining this  
84 committee to give you a second person. The other thing is, I think previously we have, because  
85 this is a Planning Commission committee, we usually selected the chair ourselves and usually  
86 make it a Planning Commissioner. And not to put him on the spot, but Commissioner Kadar has  
87 indicated that he would be willing to serve in that role.

88 Planner Fortner: Ok, good. Thank you, Karl.

89 Commissioner Karl: I humbly accept.

90 Chair Hurd: Alright, I guess my only question and this is more of a question to the body unless  
91 something be solved here. Just making sure that you have a system or process for determining  
92 some varied meeting time or dates. Days so that we can make sure that we are reaching sort of  
93 a broader, as broad as possible of the group of the public as we can. But I will leave that to you  
94 guys to work out. Alright, going around the horn, Commissioner Kader.

95 Commissioner Kader: I have no comments other than the meeting is set for the 26<sup>th</sup>, Did we agree  
96 on the time?

97 Planner Fortner: I might stick with 7:00p.m. for that meeting and that can certainly be an agenda  
98 item that we can talk about. Certainly, we will have scheduled workshops and things for  
99 outreach, hoping we can do those at different times. And, in terms of business meetings we  
100 could do. We can work with the committee, but in terms of the business meeting we had last  
101 month you know 7 o'clock is sort of the time when people can make it seems and these members  
102 of public that want to join in. The plan for plan does call for having different outreaches, different  
103 locations and times. So, we will definitely incorporate that but 7 o'clock -yes.

104 Chair Hurd: Okay

105 Commissioner Kadar: Thanks.

106 Chair Hurd: Thank you. Commissioner Silverman.

107 Commissioner Silverman: No additional comments.

108 Chair Hurd: Alright Thank you. Commissioner Stein

109 Commissioner Stein: Just to wish everybody a happy New Year and no additional comments.  
110 Thank you.

111 Chair Hurd: Alright, Thank you. Commissioner Wamplar.

112 Commissioner Wamplar: I have no comments either. Thank you.

113 Chair Hurd: Okay. In that case then action.

114 Planner Fortner: It is approved. the committee and I will approve the committee. And, if the new  
115 members come, we will run this back to the committee too.

116 Chair Hurd: Alright, I will open this item for any public comments. I have no chats on this. No  
117 one unmuting. Alright, we will say that public comment is closed. Alright, so we are back to the  
118 table. Feels like we are ready to take a motion to approve these members of the Steering  
119 Committee.

120 Secretary Wampler: Yes, I move that the Planning Commission approve the members of the  
121 Planning Development Committee as presented on December, on the document dated  
122 December 20, 2020.

123 Chair Hurd: Awesome. Do I have a second? With the addition of me, correct. Good point.

124 Commissioner Kader: Second

125 Chair Hurd: Okay, I have a second. Alright, we will go around the horn.

126 Commissioner Silverman: Aye.

127 Commissioner Stein: Aye.

128 Commissioner Wampler: Aye.

129 Commissioner Kader: Aye.

130 Chair Hurd: Aye, as well Alright, excellent. Alright that brings us to the former item #5 let me find  
131 5. This is old business.

**5. Review and Consideration of the parking waiver regarding the major subdivision with site plan approvals of permit and parking waiver for the property at 141 & 145 East Main Street and 19 Haines Street.**

Just so that we are clear per our guidelines. We are taking this item up from where we left which was after public comment and during commissioner's deliberations. We are only considering the parking waiver portion of the application which was tabled so that the applicant could verify the required parking based on the changes in the density of the building that came about from the site plan approval. So, Director Gray are you leading off?

Director Gray: Chairman Hurd, Mr. Bilodeau is leading off.

Chair Hurd: Thank you. Okay

Solicitor Bilodeau: Good evening everybody. Paul Bilodeau here. Just to kind of recap where we were when we left off at the December meeting. The applicant initially sought site plan review with a density bonus for 94 units. Prior to that we had the hearing where we tabled an application to allow me to issue an opinion on the density bonus. We offered that, as well, to this applicant and the applicant chose to push forward and then during the hearing the applicant voluntarily opted to amend the application to code compliant 60 units. And the Commission voted to approve that plan for 60 units. At that point we started trying to make the vote on the parking waiver and there was some confusion as to as to the numbers and it was a late hour as well. That's where it was mutually agreed upon and voted upon to table the motion and that is where we are picking up tonight. So, I just wanted to give a better description of what happened on December 1<sup>st</sup>. Those are my comments.

Chair Hurd: Alright, Thank you.

Director Gray: Ok, and now I will pick it up from there. Chairman Hurd as Solicitor Bilodeau summarized the parking waiver analysis went back to the Planning Commission and to reiterate, the Planning Commission recommended approval of this development of 60 two-bedroom units. This is after the applicant agreed to reduce the number of apartment units to 60 units. Upon analysis the Planning and Development staff revised recommended approval of the Planning Commission to reduce the number of units from 94 which was the original proposal to 60. It was determined that a parking waiver for this project is not needed. The applicant submitted a revised parking waiver as indicated in the enclosed packet titled *Parking Waiver Justification* that was dated December 29<sup>th</sup>. That is for 52 parking spaces with a shared parking arrangement of a parking garage with the applicant in the City where the applicant would provide upwards of 181 spaces to be utilized by patrons of the City in a public parking situation. The Planning and Development Department staff discussed, regarding this parking waiver is that staff concurs with the applicants approach as we had stated in the November 24<sup>th</sup> report regarding parking waiver in general, regarding decoupling parking for the students and discouraging on-site parking of vehicles, a provision of ample and convenient indoor bike parking facility, as well as, the applicants perspective that given the projects central location within the City of Newark and walkability. This location provides to future students that cars are not imperative for residents to navigate the City. For the staff is also supportive and in favor of their proposed shared parking arrangement where the City will manage the parking and a portion of the parking spaces will be available to the public. It is helpful to highlight that these parking concepts and approach are encompassed in the recommendations of the parking subcommittee that was adopted by Council on March 26, 2019. As indicated in the enclosed parking waiver justification the applicant is seeking the additional 52 parking spaces based on the ultimate allowable density in the BB district with the 15% bonus allowed under this site plan approval provision that Solicitor Bilodeau had indicated and it is attached to your packet. However, the parking waiver code section 32-45(b)((1) indicates and I quote, " The off street parking standards in section 32-45(a) may be reduced or waived for any permitted use in section BB 32-18 requiring a certificate of occupancy with the approval of the Planning Commission" end quote. The code here in general indicates that a parking waiver is tied with a project as a whole and can only be sought when the proposed

parking number is less than what the code requires. Therefore, to allow for a parking waiver when none is required does not align with the code. Staff notes that the review of the parking waiver request is under the purview of section 32-45(b) of the code and per this section specifically, subsection 2, in reviewing the parking waiver application the Planning Commissions shall consider the following: Whether the applicant has demonstrated that the proposed use does not conflict with the purposes of the comprehensive development of the City. Whether the applicant has demonstrated at the proposed use confirms to and is in harmony with the character and development pattern of the Central Business District. Whether the applicant has demonstrated that the proposed use is not highway oriented in character or significantly dependent on the automobile or traffic as a primary means of conducting business. If the proposed use will not adversely affect the health or safety of persons residing or working in the vicinity or will be detrimental to the public welfare or injurious to property or improvements in the vicinity. The Planning Commission may also consider the availability of off-street parking facilities and the availability of nearby adjacent parking facilities within 500 feet that may be shared by the applicant and an existing or proposed use. In considering the subsection the Planning Commission may require that the applicant submit an appropriate deed restriction satisfactory to the City that ensures that either the continued validation of and/or the continued use of shared parking spaces in connection with uses and structures they serve. And finally, the Planning Commission shall consider the advice and recommendation of the Planning Director. So that is the framework, if you will, of the decision of the how the Planning Commission should look at a parking waiver. In conclusion of my presentation here, the Planning and Development Department does not recommend in favor of the 52-space waiver. Rather it is just recommending that the Planning Commissioner approve the development of a shared use parking agreement for the language described in the December 31, 2020 memo in your packet. Should the Planning Commission wish to grant the 52-space parking waiver then an alternative motion is included in this same memo, an alternative motion for the Planning Commission. This includes Solicitor Bilodeau direction that increased density of this project from 60 units to 88 units will require another action by the Planning Commission and City Council. Chairman Hurd, that concludes my presentation. Thank you.

Chairman Hurd: Alright, thank you so much. Alright, we will move to Mr. Alan Hill, the applicant to walk us through there parking waiver justification memo. We are not hearing you Alan. Alan you need to unmute your – other button.

Director Gray: In the meanwhile, Angie, could you please pull up the PowerPoint presentation from Alan. Thank you.

Alan Hill: I am sorry about that. I could not figure out how to unmute myself. Pretty much sums up the day so... As you know I am Alan Hill with Hillcrest Associates. I am presenting tonight on behalf of my client, Main Street Acquisitions LLC. They are actually not with me this evening. If you could move to the next slide, please Angela. Thank you. Alright, so, I am sure that you will all recall that I was here last month – you do, with this project and the commission acted on the application, the special use permit and the major subdivision plan with site plan approval. But we ask for the parking waiver application to be tabled at that time as there was confusion with regards with the need and the actual number of parking spaces that we would be asking for with the waiver. Next slide please. By way of reintroduction to the project you can see on this City of Newark parking map the approximate location is shown to East side of Haines Street between East Main Street and Delaware Ave. Identified the City Parking Lot #7. The reason it is identified as City Parking Lot at this time is because the City approached my client to ask if they could use the lot for City parking during the Main Street improvement which my client graciously agreed to. We believe that this is an ideal location for consideration of a parking waiver and the coupling of the parking with its central location within the City of Newark. The natural local ability of this location provides with access by walking or biking to countless amenities which negates the residents needs to have on-site parking. Also, by decoupling the parking from the uses this will allow the parking spaces that are required for the commercial spaces to be made available for public use bringing the much needed parking that the downtown businessess have been pleading for. Since the last meeting we have been working with the Planning Department to determine

the amount of parking spaces parking waivers should be for. This is because of the recommendation from the Planning Commission was for 60 units. Sixty units simply does not require a parking waiver. However, it is my understanding that to de-couple the parking from the building, a parking waiver is required. Another of the ongoing discussions we've been having with the City is to do with the shared parking agreement. And currently, we don't have an outlined agreement with the City. So, as part of this application I am not able to commit my client in any way to the shared parking agreement. I believe both parties are working in good faith to reach an agreement, but ultimately, it is my client's intention and desire that the parking waiver should be approved so that over 200 parking spaces could be made available for downtown public parking. Preferably as part of a shared parking agreement but it could be operated independently. Also, since the last meeting the City Solicitor has clarified in a memo to the Planning Commission that a 15% density bonus is allowable with site plan approval. This density bonus is not an agenda item, so I am not looking for a determination on this and whatever the Planning Commission determines from this parking waiver application it doesn't affect the recommendations from last month. However, with this density bonus in mind, I offer the calculation used to develop the number of spaces requested for the waiver. Next slide, please. Our growth tract area of 1.52 acres has an allowable density of 50 units per acre with two-bedroom units which would yield 76 dwelling units. The site plan approval process permits the density bonus of 15% thus creating a maximum number of units for the parcel of the 88 two-bedroom units. We use the 88 two-bedroom unit calculation as this would create the greatest number of parking spaces that could be required. Next slide, please. The proposed plan requires 97 parking spaces for the commercial portion of the proposal. The ultimate maximum possible parking spaces required for 88 two-bedroom apartments would be 176 parking spaces for a total of 273 parking spaces. The proposal presented last month included a parking garage with 221 parking spaces which would then require a waiver of 52 parking spaces for, the ultimate density that could be proposed by site on approval. If granted up to 52 spaces will be taken from the spaces proposed for the residential portion of the project, reducing the spaces available to residential tenants while providing a minimum of 101 parking spaces that will be available for public parking with the potential of over 200 spaces available for public parking. Next slide, please. So finally, to sum up, we are not requesting the Planning Commission amend in any way the previous recommendations. Just to vote on a residential parking waiver of up to 52 parking spaces for the residential portion of this project which will allow the applicant to decouple from the parking requirements for the building and thus allow the commercial buildings, the commercial parking to be used by the public. In the return for the waiver the applicant is willing to make available to the public a minimum of 101 commercial parking spaces proposed by the application and work in good faith with the City to create a shared parking arrangement. Again, at this time there has not been an outline created for the arrangement only a willingness and a commitment from both sides to try and complete what would be a groundbreaking moment for the City and Main Street businesses. The bottom line is here with or without the shared parking arrangement the proposed waiver would ensure a minimum of 101 parking spaces that would be made available to the public and businesses in downtown Newark with a potential of over 200 parking spaces available. At this point I will hand back to Chairman Hurd and make myself available for any questions.

Chairman Hurd: Alright, Thank you. So, you bring up a good point. The point that was sticking for me as well which was, I was believing that we were needing a waiver to release the parking spaces that were dedicated by the code to be available for general use. But help me out here with this Director Gray and Solicitor Bilodeau. My understanding and from the conversation that is not in fact what the code requires. Because there are at least two instances of parking lots that are providing spaces required for a business that are also charging for that parking. So, they have now made it, you know, essentially it's available, but the owner has more control over it. Can you help me out here Director Gray am I in the right direction?

Director Gray: Yes, Chairman Hurd you are in the right direction.

Chairman Hurd: Okay. So, to my mind, at least, and check me on this Solicitor Bilodeau. I don't believe that the parking waiver is required to release any of the parking spaces to be available to

291 City managed. I think it's enough to say that you have by code adequate spaces for the density  
292 that you've proposed. But we are going to have the City manage it and part of the management  
293 is going to be while a resident has a parking pass that allows them to park and that is part of the  
294 management plan. And that people that frequent the business will have to pay or it's not like it's  
295 not that the code says that the parking has to be free. I think that what it is. It's just the parking  
296 has to be available. Is what I am sort of trying to get around to.

297 Paul Bilodeau: That is my understanding in past that where there has been adequate number of  
298 spaces and there has been some sort of decoupling there was no need for a parking waiver in the  
299 past.

300 Chairman Hurd: okay.

301 Paul Bilodeau: I will add, as well, that the decision on the parking waiver of Planning Commission  
302 tonight can be appealed to the Commission or to the Council if the applicant doesn't like the  
303 decision and the applicant can seek a ruling from the Council on the parking waiver. I think it's  
304 clear that the waiver being sought tonight is being basically based upon them eventually getting  
305 additional density but that's not going to happen tonight. So, I'll just add that.

306 Chairman Hurd: okay, thank you. Alright, we will start with Commissioner Stein.

307 Commissioner Stein: I just want to make sure that I am clear. There is no waiver required for  
308 this project in 60 two-bedroom units, correct?

309 Paul Bilodeau: Correct.

310 Commissioner Stein: When it says on approval the 52-space parking waiver granting the parking  
311 waiver does not grant increased density from 60-88 that this will require another action by the  
312 planning commission, or this would require another action. So, are we being put on notice that  
313 that this is the intent and if we grant the waiver – I don't mean they, I don't mean to be  
314 disrespectful- the developer is going to come back looking for 88 units?

315 Paul Bilodeau: There is a disagreement right now as to the legalities here. I opined earlier a  
316 couple of weeks ago, that once I heard that the applicant who was now interested in getting  
317 more density to this product adding more units that it was my position that if they wanted to do  
318 that they needed to start back again with the Planning Commission. They feel just as strongly  
319 that no, they can go to the Council at their hearing and get the additional density at that time.  
320 So that there is a difference of opinion as to whether it is going to come back to Planning  
321 Commission or not.

322 Commissioner Stein: Alright, that's all that I have. Thank you.

323 Chairman Hurd: Thank you. Commissioner Wampler.

324 Commissioner Wampler: Thank you. Yes, I have, well for me it's simple. I have a couple of  
325 concerns about this whole project, but we recommended approval of the project on the  
326 condition that it would be limited to 60 apartments with two bedrooms each. A total of 240  
327 residents. And as we approved it does not need a parking waiver and so I have a lot of trouble  
328 supporting the parking waiver. There are a couple of things that really bother me about it. At  
329 that meeting people had a lot of objections to the building as presented because they felt that it  
330 was too tall and too massive given the scale of Main Street. And the decision was that 30 of the  
331 apartments would be removed from the project but that the building would not be made any  
332 smaller. So, we approved it with the 60 and now they are proposing that they get a parking  
333 waiver for 88 apartments. Something about this just doesn't sit right with me. I think that all  
334 aside looking as it is the parking waiver goes with the project as recommended or as approved.  
335 We recommended it for a total of 60 apartments and they have the parking that they need so I  
336 am in no way in favor of granting a parking waiver.

337 Chairman Hurd: Alright, thank you. Commissioner Kadar.

338 Commissioner Kadar: While I am extremely happy this project will lead to additional parking  
339 spaces downtown, particularly given what is going on in the next project we will discuss where  
340 parking spaces are being eliminated. I think that is a wonderful thing, but I am with Tom on this  
341 one. We agreed to a building and I will remind everyone that I was not particularly happy with  
342 the design or size of this building. Like Tom, do not really feel like it fits in with Main Street. None  
343 the less, we were giving them the approval to build the building with 60 units and with 60 units  
344 a parking waiver is not required and now we are asking to approve a parking waiver because  
345 maybe they'll increase it to 88. I have a real issue with that. I would not vote to approve the  
346 parking waiver at this point. We want to keep it at 60 units.

347 Chairman Hurd: Alright, Thank you. Commissioner Silverman.

348 Commissioner Silverman: Is part of the justification for coming back with a parking waiver involve  
349 with the negotiations with the city and the City operating the parking facility, Mr. Hill?

350 Alan Hill: Somewhat. We were informed by the City that we had to come back with a parking  
351 waiver to complete the process of what we started last month. We made an amendment down  
352 from 87 parking spaces down to 52 just as a justification for the waiver. The waiver we want to  
353 separate the waiver from the shared parking agreement. We want to make the spaces available.  
354 We were under the impression that we needed a waiver. Also, for the decoupling. So, I guess  
355 that was, I guess, a misunderstanding on our part of the decoupling based on what Director Gray  
356 and Mr. Bilodeau pointed out tonight. We were told by the City that we needed to come back  
357 with a waiver request to complete the application from a month ago.

358 Commissioner Silverman: Hmm, okay. So, it appears the City is driving your additional application  
359 for the parking waiver.

360 Alan Hill: That is my understanding is that we were asked to bring this waiver back in just to  
361 complete the process.

362 Chairman Silverman: Okay, Mr. Chairman, I have no other comments.

363 Chairman Hurd: okay. I just say that I concur with the Department. Granting a waiver when one  
364 isn't required by the code in the units. I think, clearly, there needs to be some conversation  
365 between Director Gray and the Parking Department perhaps about waivers and decoupling  
366 because they may be under the same impression that I was under that is that you need the waiver  
367 to kind of remove it from the project and put it in the open space to manage. That just may be  
368 something, so, I am sorry that you are getting the run around on that. I think I am in an agreement  
369 that we have to look at the parking that's required by the project that has been presented and  
370 whether, to, my mind, the parking waiver is for when you cannot provide the parking that the  
371 code requires for the project that is presented. I think we seen clearly that there is adequate  
372 parking by code for the project. Sorry I lost my thought. Okay, we have been around. Any final  
373 thoughts, questions, discussions?

374 Commissioner Kadar: Just to be clear on this. A project was submitted for an excess of 60 units  
375 last week or last month, excuse me.

376 Chairman Hurd: Right

377 Chairman Kadar: And, we have by agreement reduced that to 60. The builder agreed to reduce  
378 it to 60 and therefore we approved the project with 60 units. The 60 units do not require a  
379 parking waiver. Is that correct?

380 Chairman Hurd: That is how I am being told.

381 Chairman Kadar: based on that the request for a parking waiver is kind of a moot point. Why  
382 are we requesting a waiver for something that doesn't require a waiver? I think we need to clear  
383 this up.

384 Chairman Hurd: I guess we are saying we are pressing a waiver. We are considering the last item  
385 outstanding from the application last month was the parking waiver application. Which at the  
386 time I believe they did require because they had higher units and they had more density and they  
387 had higher parking requirements.

388 Commissioner Kadar: Agreed

389 Chairman Hurd: so, we are simply considering the revised calculations presented by the applicant  
390 based on the project as we reviewed it. So, I wouldn't say that we are pushing the application or  
391 pushing the issue we are just considering so we can close out this item and move the approval  
392 along.

393 Director Gray: Mr. Chair this is Director Gray if I could also, add to that. Yes, we are closing out  
394 a tabled agenda item that they requested the Planning Commission to table this item wanted it  
395 back. And, also, there were comments included in the tabled when this was tabled that they also  
396 wanted to have a discussion regarding the shared parking and further discussion regarding the  
397 shared parking arrangement and how the whole parking would work. So, I saw this as the shared  
398 parking and the parking waiver being tied because of those comments at the last when this item  
399 was tabled. That is why we are having this discussion this evening.

400 Chairman Hurd: Okay. Certainly, I am in favor of this shared parking agreement, I think. It makes  
401 a lot of sense. I truly do hope that the applicant and the City can work out the agreement that  
402 makes it effective. Okay.

403 Solicitor Bilodeau: I will just add one more for Mr. Kadar reason why to vote, it's like I said, the  
404 appeal process so that if the applicant is correct when they go to the Council they can seek  
405 additional density at that time Council can consider the appeal of the denial of the parking waiver  
406 so that this doesn't have to come back to the planning commission again. So, from an efficiency  
407 standpoint it might be better to proceed that way.

408 Chairman Hurd: Okay.

409 Commissioner Kadar: Thanks Paul. I am clearer on that.

410 Solicitor Bilodeau: Thanks.

411 Chairman Hurd: Okay, any other Commissioner comments or questions?

412 Commissioner Wampler: In moving forward, I think we have recommendations for two motions,  
413 and I think they should be voted on separately. One of them concerns the development of the  
414 shared use agreement which I think, well, we will see who is in favor of that and who's not. But  
415 I think that is separate of the actual approval of the 52-space parking waiver. I thought we should  
416 have a separate motion and a separate vote on each of those two suggestions if that is what you  
417 are looking for.

418 Chairman Hurd: It kind of makes sense. Because, right, one is about the recommendation about  
419 the approval of the subdivision plan and the other one is the request for the parking waiver.

420 Commissioner Wampler: Right, I think we owe the applicant a straight vote on that.

421 Hurd: Right, Rather than

422 Commissioner Wampler: My personal preference would be that that would be separate from  
423 voting on the shared agreement.

424 Chairman Hurd: Mr. Hill.

425 Alan Hill: I think the first motion that Mr. Wampler is talking about would be making it an  
426 amendment to the motion made last week and to my belief it is closed. Because that was voted  
427 and closed. So, I think the only vote you can take is on the second item and that would be, the  
428 way you are talking, would be to decline it. Decline the parking waiver.

429 Chairman Hurd: Okay.

430 Alan Hill: So, we can cancel that.

431 Chairman Hurd: Searching my memory and I can turn around and try to grab last month's thing  
432 was recommendation for the shared parking part of our approval last month?

433 Commissioner Stine: Yeah, that's why I am waving my hand. I do not have last month's packet  
434 with me, but I thought that a shared parking arrangement was part of the initial approval of the  
435 project.

436 Chairman Hurd: I am grabbing the packet. I am glad I didn't. not that one, not that one. There  
437 it is. So, there was item C about. So here is the thing, this is the motion that we didn't vote on  
438 because it says – I am just quoting from last month, "Because this should not have a negative  
439 impact on the adjacent and nearby properties and because the proposed plan does not conflict  
440 with the development pattern of the nearby area recommend approval of the 84 space parking  
441 waiver for 141 East Main Street with the following conditions. Those conditions being that  
442 applicant shall work with staff on a shared parking arrangement". So, I believe that was the item  
443 that was tabled. So, I believe we are back to the language around shared parking. I know that we  
444 discussed it in great detail. But I am not seeing that that was a motion that was made or voted  
445 on.

446 Alan Hill: If I may, that is what we tabled.

447 Chairman Hurd: Right.

448 Planner Fruehstorfer: if I could interject, this is Tom Fruehstorfer, a planner. The plan last month  
449 was to have a subdivision agreement and a parking waiver. So, the condition that we are talking  
450 about in our first alternative here was going to be part of that parking waiver. Since the applicant  
451 reduced the density and the parking waiver is not required, that condition is still out there. So,  
452 in discussion it was discussed that a condition would be part of it, but the condition last month  
453 was part of the parking waiver vote and not the subdivision vote. So, through the the whole  
454 discussion everyone assumed the parking agreement would be part of the subdivision, but it  
455 would just be captured in the parking waiver but now we do not have a parking waiver. Possibly,  
456 so that's how we got where we are.

457 Chairman Hurd: right, and that is a good point because the language did shift slightly between  
458 the two because this month's motion, recommended motion is about following conditions to the  
459 recommendation of approval of the subdivision plan. Which Mr. Hill is correct, basically we have  
460 approved that plan? That item is closed.

461 Paul Bilodeau: I'll all that the agenda item tonight just talks about a parking waiver and doesn't  
462 talk about a shared parking agreement.

463 Chairman Hurd: Alright. Alright. So, my one concern is that by not making the shared use  
464 agreement as part of our approval because I think in our conversation that was something that

465 we wanted to have happen. Do we have a mechanism to ensure that the process continues  
466 forward? Do you see what I am trying to get at Mr. Bilodeau?

467 Solicitor Bilodeau: I do, I do Mr. Chairman. Possibly the motion could be in two I guess it's got to  
468 be in the positive vote to recommend the parking waiver 52 units with a shared parking  
469 arrangement. And then if that's denied then that will be what's appealed to the Council.

470 Alan Hill: I am sorry to keep interrupting. Because we do not have an outline on the shared  
471 parking agreement, it makes it very difficult to know what you're making my client agree to. If  
472 that the right reason. Obviously, we would like to do the shared parking agreement. It makes  
473 sense for everybody involved. But because there is no outline for it yet and we have been, we  
474 have been reaching out to the City since the last meeting multiple times. We've just haven't been  
475 able to get anything sorted out. We like the idea of, I like the idea your making a vote obviously  
476 like Mr. Bilodeau said in the positive but we have to tie the parking waiver a good faith attempt  
477 getting the shared parking agreement to work as opposed to locking us in because we do not  
478 know what we are being locked into and you don't know what your being locked into. I think  
479 that has to have some wiggle room for both sides for want of a better term. I need a little wiggle  
480 room please.

481 Chairman Hurd: I am not comfortable saying that the shared parking agreement is part of the  
482 parking waiver approval because what I am hearing, at least, is that there is not a lot of support  
483 for the parking waiver but there is support for the shared parking plan. So, I do not want to tie  
484 them because they are sort of separate things in that sense.

485 Alan Hill: Mr. Chairman, do you want to divide the motion as was suggested by Mr. Wampler?

486 Chairman Hurd: So, the challenge is Mr. Hill pointed out and I am not sure if Mr. Bilodeau has a  
487 response directed to this. The way the motion is written in this month's report ties the shared  
488 parking agreement to approval of the subdivision plan, but we have already approved the  
489 subdivision plan.

490 Director Gray: If I could interject, Mr. Chair. This is Director Gray. This is just a suggested motion.  
491 You could change the motion. This is merely a suggestion.

492 Chairman Hurd: okay

493 Commissioner Wampler: This is Tom Wampler, I have a quick question. If in fact, the parking  
494 waiver was denied is there still an interest in having the shared use agreement if there is we, I  
495 think we can make a motion not to amend the wording of something we already voted on but  
496 we that we recommend that City Council direct the city to develop a shared use parking  
497 agreement with the applicant.

498 Chairman Hurd: right

499 Commissioner Wampler: Regardless of whether the independent or regardless of how we vote  
500 on the waiver.

501 Chairman Hurd: I like that better because it just becomes a recommendation from the planning  
502 commission that there be a shared use agreement negotiated if possible but doesn't it tie to  
503 previously approved and closed items. Or to future items.

504 Paul Bilodeau: I am fine with that.

505 Commissioner Wampler: I would use the wording that is on page 3. I think I would get rid of the  
506 2<sup>nd</sup> sentence that says "The agreement is expected to be completed by the 2<sup>nd</sup> quarter of 2021  
507 and prior to the issue in the building permit". Unless people think it seems a little restrictive to  
508 me and just say that we recommend that the City develop a shared use agreement and then go

509 on to say the Management agrees that it is expected to management of the parking and then all  
510 the way to the end. But if people want to leave that 2<sup>nd</sup> sentence in.

511 Chairman Hurd: Why don't you read it out and we will see if we need to make amendments to it.

512 Commissioner Wampler: I would move the Planning Commission recommend that the City  
513 Council direct the city to develop a shared use agreement for the parking garage. The  
514 management agreement with the City is expected to include management of the parking,  
515 enforcement, installation of the City's parking system that comprises the two-tiered parking and  
516 kiosk system, a camera lighting system, maintenance of the camera and lighting system, striping,  
517 and the T2 hardware and software system and city management of parking permitted for  
518 apartment use.

519 Chairman Hurd: Okay, do I have a second?

520 Commissioner Kadar: I will second.

521 Chairman Hurd: Okay, do we have any amendments to the motion? Discussion of the motion?

522 Commissioner Stine: Mr. Hill, I am not sure of what we are voting on here because I thought I  
523 heard Mr. Hill saying that he is not going to obligate or commit his client to a shared parking  
524 agreement. It's kind of sounds like that is what we are still attempting to do.

525 Chairman Hurd: So, I'll say that Wampler. The thing here is that we are recommending the  
526 Council direct the City, and only the City, to develop an agreement. We cannot direct the applicant  
527 to do anything.

528 Mr. Hill, may I ask if your client is interested into entering into such an agreement with the City  
529 if you don't get the parking waiver, because, I know last month it was late and everybody was  
530 tired and we were all a little cranky but if I am not mistaken you did say at the last meeting, and  
531 I don't want to put words in your mouth and I wish I had the exact minutes but I thought you said  
532 that parking would be off the table if your client wasn't given the density that they were asking  
533 for. So, now are we not only reducing the number of units down to 60 but also denying the  
534 parking waiver. Does your client have an appetite to enter into an agreement with the city still?

535 Mr. Hill: Not really. I mean there is no benefit to enter into an agreement without a parking  
536 waiver or any density created or anything along those lines. They really don't have much interest  
537 in entering into an agreement. I mean, I have to say, that we have reached out to the City  
538 multiple times since the last meeting. We have not had warm and fuzzy response feeling back.  
539 Everybody says they want this but, I know everybody is busy with the holidays and everything,  
540 but we have not been getting a really positive feedback from this and the client is getting, quite  
541 frankly, a little bit fed up with the process. So, the waiver keeps his interest in it but without the  
542 waiver, and I cannot speak 100% for him, I don't believe he has much interest but that wouldn't  
543 make a change to Mr. Wampler's motion because that is just directing the Council to direct the  
544 City to work with us to create an agreement. My client, I believe, can walk away from that at any  
545 point. It's just a direction to the City and the Council. But, to guarantee the spaces and the  
546 possibility of an access, my thoughts are that the waiver should be at least granted even if it is  
547 not needed. It allows us to reduce down the spaces that presented to the apartments part of the  
548 process even make those available if you have the waiver in there. So it has multiple effects on  
549 the project. Even if it stands at 60 units. Which is beneficial for the City and the clients to have  
550 the parking waiver in there but it doesn't seem like you are really interested in the parking waiver,  
551 but you are more interested in the shared use agreement. But, if those get tied together, I think  
552 my client is okay with that.

553 Commissioner Stine: I appreciate your honesty on that because I heard you say that last time  
554 and I appreciate your consistency on that position and I completely understand that. The reason  
555 I bring it up is because my next question is: if there was an appetite for granting this waiver

556 because it was tied to a shared parking arrangement with the City, could this Commission grant  
557 an approval with that contingency. That you must enter into a mutually agreeable shared parking  
558 agreement because, quite frankly, I don't think I would have voted "Yes" on this project last  
559 month because I do not really love the building, to be perfectly honest. But, the benefit of the  
560 parking to the City, I would have a hard time voting against 101-200 spaces of additional parking  
561 to the City businesses. So, I am a bit conflicted here.

562 Mr. Hill: I understand exactly your confliction. The problem that we have is that we can only say  
563 that we will do our best working with the City because we do not have an outline and to give you  
564 an outrageous example of concern, and it can work both ways. If we are forced to have an  
565 agreement, the agreement could say, that my client is responsible for building the parking spaces,  
566 striping, the machines, everything else and then paying the City \$5000 a month to have them  
567 manage the parking and get no return on the investment. That, quite frankly, is never going to  
568 happen. So, that extreme example that I don't think the City looks at it that way, but that is the  
569 potential that could open up by saying that we will have to enter into a shared parking agreement  
570 because, the negotiations just haven't got that far. As far as dollars and cents and who manages  
571 what, who is responsible for what? It just too early in the negotiations to force my client into a  
572 parking agreement that he doesn't know what he is agreeing into. I hate to say that because I  
573 want the project to, from all different levels, because if I didn't want it to work, I wouldn't be  
574 doing it. I think it's a massive benefit for the City with the parking. So, we want to do whatever  
575 we can to make it happen and make it work and all those things. The word "will or shall" is  
576 something that I kind of have to push back on. I hope you understand that.

577 Commissioner Stine: Absolutely. If this parking waiver was not approved this evening, did not  
578 get a positive recommendation from this Commission, is your intention then to appeal it to  
579 Council? Is there still an opportunity for us to do, really what we should be doing, which is not  
580 approving a waiver that's not needed. Does that give you additional time to work with the City  
581 to bring this up again to the Council on appeal and perhaps reach an agreement at that level?

582 Mr. Hill: It does. If you were to deny the parking waiver, I believe it gives us 30 days to appeal  
583 the decision. Then, the ideal from that point, that the appeal would be tied into whenever we  
584 go to City Council for the rest of the project. That would be the ideal thing on that. Hopefully, in  
585 that time, we have all of these "if, buts, and maybes", I think is the phrase, figured out. Then,  
586 Council can do what council does. And listen to all the discussions and weigh their  
587 recommendations and go from there.

588 Commissioner Stine: Thank you, Mr. Hill. Thank you.

589 Chairman Hurd: Okay, any further discussion on the motion.

590 Commissioner Silverman: Can we have re-reading of the motion, please?

591 Hurd: Absolutely. Secretary Wampler.

592 Commissioner Wampler: The motion is that the Planning Commission recommend to City Council  
593 that they direct the City to develop a shared use agreement for the parking garage. The  
594 management agreement with the City is expected to include management of the parking and  
595 enforcement, instillation of the City's parking system that comprises the T2 parking and kiosk  
596 parking system, and the camera and lighting system, maintenance of the camera and lighting  
597 system, striping, and the T2 hardware and software system, and City manage the parking  
598 permitted for apartment use.

599 Chairman Hurd: Okay, so that is the motion before us. The discussion I haven't have, I do not  
600 have any amendments to the motion. We will move to the vote.

601 Commissioner Wampler: this is just making a recommendation to City Council?

602 Chairman Hurd: Yes

603 Commissioner Wampler: And it does not imply any obligations on the part of the applicant. I  
604 think it's a good idea and I vote yes.

605 Chairman Hurd: Okay, Commissioner Kadar.

606 Commissioner Kadar: I vote Aye.

607 Chairman Hurd: Commissioner Silverman.

608 Commissioner Silverman: Aye.

609 Hurd: Commissioner Stine.

610 Commissioner Stine: Aye.

611 Chairman Hurd: I vote "Aye", as well. Especially for the reasons stated by Commissioner  
612 Wampler. Alright, now the 2<sup>nd</sup> motion. Which is on the parking waiver request.

613 Commissioner Wampler: I am just going use the short recommendation that is on page 4, which  
614 I think is very straight forward. I move that the planning commission approve the 52-space  
615 parking waiver. Granting the 52-space parking waiver does not grant increased density of this  
616 project from 60 units to 88 units. This will require another action required by the Planning  
617 Commission and City Council.

618 Chairman Hurd: Thank you. Do I have a second?

619 Commissioner Silverman: I'll second.

620 Chairman Hurd: Any discussion on the motion? Alright, I see none. We will move to the vote.  
621 Commissioner Kadar.

622 Commissioner Kadar: Aye.

623 Chairman Hurd: Commissioner Silverman.

624 Commissioner Silverman: I vote Aye.

625 Chairman Hurd: Commissioner Stine.

626 Solicitor Bilodeau: Your voting in favor of the parking waiver? This is a positive motion. I just  
627 want to make sure everybody knows that.

628 Commissioner Kadar: Yes, that is what my vote was. Even know it is not technically required.

629 Solicitor Bilodeau: Okay.

630 Chairman Hurd: Okay, thank you Solicitor Mr. Bilodeau. Commissioner Stine.

631 Commissioner Stine: I am going to vote "Aye" and hope that in good faith you can negotiate a  
632 shared parking agreement with the City.

633 Chairman Hurd: Okay, Commissioner Wampler.

634 Commissioner Wampler: I vote, "No".

635 Chairman Hurd: Alright, and I vote, “No”, as well for the reasons stated in the Department report.  
636 Alright. Closed that item.

637 Mr. Hill: Thank you for your time and consideration.

638 Chairman Hurd: And thank you Mr. Hill for your assistance during this process.

639 Director Gray: Chairman Hurd, A point of order. So what was the vote on that?

640 Chairman Hurd: it was 4 to 1.

641 Director Gray: So, the motion passed?

642 Solicitor Bilodeau: No, it was 3 to 2

643 Chairman Hurd: No, it was 3 to 2. Sorry I was reading the wrong one.

644 Commissioner Kadar: The Chairman and Tom Wampler voted, “NO”.

645 Chairman Hurd: Correct. Alright.

646 Commissioner Wampler: Mr. Chairman.

647 Chairman Hurd: Yes.

648 Commissioner Silverman: Just to comment on our previous activity. As a Commissioner, I am not  
649 interested into entering into contract agreements and negotiations that are part of City activities.  
650 Particularly for areas we have no authority or responsibility for namely specifications on parking  
651 arrangements. I think our duties are limited to just the ordinance itself and in the future, I would  
652 not like to see these things come before us again.

653 Chairman Hurd: Okay.

654 Commissioner Silverman: Our activities should be that simply that a shared parking agreement  
655 should be entered into not the specifications of it.

656 Chairman Hurd: Oh, I got you. For the details of it. Okay.

657 Commissioner Silverman: That is not part of our purview.

658 Chairman Hurd: Okay, noted. Alright, I see Mr. Tracey has joined us.

659 Mr. Tracey: Good evening, Mr. Chairman.

660 **4. Review and Consideration of a major subdivision with site plan approval. Special use permit**  
661 **and parking waiver for the property at 132-138 East Main Street.**

662 Chairman Hurd: Alright, we are now taking up #4 which is old business from last month. Our  
663 review and consideration of a major subdivision with site plan approval. Special use permit and  
664 parking waiver for the property at 132 – 138 East Main Street. Again, I will note we are taking  
665 this item up where we left, which was after public comment during the Commission’s  
666 deliberation because there was a question on the interpretation of the code. We sought out  
667 from the Solicitor an opinion which we have received and is part of this packet. So, I believe,  
668 Director Gray we are starting with Solicitor Bilodeau’s statement? Or are you taking it up first?

669 Director Gray: Chairman Hurd, Director Gray here. I am taking it up first.

670 Chairman Hurd: Okay.

671 Director Gray: Solicitor Bilodeau, do you have any comments that you would like to add? Before  
672 we get started.

673 Solicitor Bilodeau: Not really. I think you can handle it.

674 Director Gray: Thank you Solicitor Bilodeau. Good evening, once again this is Director Gray. This  
675 is for 132-136 Main Street. I just have a couple of comments and this is a reiteration and  
676 summary of memo dated that was in your packet from staff. Major subdivision with special use  
677 permit and parking waiver for 132-136 East Main Street was presented to the Planning  
678 Commission at December 1<sup>st</sup> 2020 meeting. During the discussion questions arose including  
679 allowing apartments on the ground floor in the “BB” zoning district and the interpretation of  
680 allowable apartment unit density while utilizing site plan approval process. The application was  
681 tabled by the Planning Commission so the city Solicitor could investigate the questions. City  
682 Solicitor has since ruled that through the site plan approval process a request for apartments on  
683 the ground floor in the “BB” zoning district is allowed and a request for an increase density is  
684 allowed but shall be limited to 15%. The Solicitor’s memo with this ruling was sent out to all via  
685 email on December 10, 2020 and was included in your Planning Commission packet. The project  
686 presented tonight has the following changes: purposed 1<sup>st</sup> floor apartments has been removed  
687 and replaced primarily by commercial, office and retail space. The apartments on floors 2-5 will  
688 now be made up of 15 two-bedroom apartments, 9 4-bedroom apartments, and 4 six-bedroom  
689 apartments. The parking waiver has been adjusted to reflect the change in parking requirements.  
690 The applicant has submitted further information for consideration in this application including a  
691 list of purposed changes, a new project description letter, a new parking waiver request letter,  
692 and a letter addressing public work subdivision advisory committee comments. These documents  
693 were included in your Planning Commission packet, as well. The Planning and Development staff  
694 has the following comments and these proposed changes: regarding the removal of the purposed  
695 1<sup>st</sup> floor apartments and replacement by primarily commercial office and retail space, staff notes  
696 the comments on the November 24<sup>th</sup> Planning and Development staff report on page 6. Which  
697 indicates that this area is already behind commercial space fronting on Main Street, that the  
698 current commercial space on this property is being replaced by the proposed project with new  
699 commercial space. That this proposed revision is further adding to commercial office and retail  
700 space to the current downtown inventory. Based on these comments, the November 24<sup>th</sup>  
701 Planning Development Staff report, staff recommends approval of this proposed revision.  
702 Regarding the proposed change in the number of units, the unit density waiver by site plan  
703 approval and the unit configuration, staff notes that this a reduction in the overall number of  
704 units proposed from 33 in the original proposal to 28 units. For the proposed waiver of site plan  
705 approval of 4 units and a change to the unit configuration for a total of 90 bedrooms from 92  
706 bedrooms. Staff notes that the original proposal included 19 two-bedroom apartments, 2 Three-  
707 bedroom apartments, and 12 Four-bedroom apartments for a total of 92 bedrooms. Staff also,  
708 notes, that while the overall unit configuration has shifted over half of the units are still two-  
709 bedroom units, the density has been reduced to the original proposal and the number of  
710 bedrooms has been reduced by 2. Based on these comments and the November 24<sup>th</sup> Planning  
711 and Development staff report, staff recommends approval of this purposed revision. Staff also,  
712 notes that the density one of the variances that is being requested under the site plan approval  
713 prevision, per section 32-97 of the code which provides for “alternatives for new developments  
714 and redevelopment proposals to encourage variety and flexibility and to provide the opportunity  
715 for energy efficient land use by permitting reasonable variations from the use and area  
716 regulations”. The Planning Commission will need to consider the requested area regulation  
717 exceptions as well as the standard of distinctiveness and excellence in site design as outlined in  
718 section 32-97 and the developers site plan approval submission. Finally, the parking waiver  
719 request is being increased from 66 to 67 due to the change in the unit’s configuration. As I just  
720 described and further described in your packet. The Planning and Development Department staff  
721 concurs with the applicant’s approach of decoupling parking, discouraging on-site parking of  
722 vehicles, as well as, discouraging the use of vehicles in favor of alternate means of transit in the  
723 downtown area. Further this approach is encompassed in the recommendation of the parking  
724 subcommittee and adopted by Council on March 26, 2019. Staff recommends approval of this  
725 parking waiver with a condition that the lease agreement shall be 99-years. Staff notes, that the

726 review of the parking waiver request is under the purview of section 32-45 being the code and  
727 per subsection 2 which I articulated in the last presentation and I will not go back over that. But  
728 that provides the framework. Because of that, staff recommends approval and I turn it back to  
729 Chairman Hurd. Thank you.

730 Chairman Hurd: Alright, Thank you. So, I just want to make sure we are all clear about the memo  
731 which is that from Solicitor Bilodeau that we do have the ability to approve ground floor  
732 apartments and increase density. I guess I just want to be aware that there is a memo from  
733 members of the development community that may have been sent to some of you today.  
734 Outside of our usual channels that disputes this opinion. The Planning Commission isn't the place  
735 to adjudicate this interpretation. We have to really be able to rely on the Solicitors opinions to  
736 do our work. We can't do our work if we come to the table trying to make a decision about which  
737 interpretation is correct. That is the role of the Solicitor. I think he did a very thorough job. So, I  
738 would say his opinion is not open to comment or further interpretation in this body at this  
739 moment. So, I will say that we had long conversations about the building overall, its design and  
740 such. I will open the floor to the applicant and ask to just sort of stay focused on the changes,  
741 which I do think Director Gray has kind of covered but just your take on them. So, that then we  
742 can kind of move sort of quickly to the discussion to of the project itself. Mr. Tracey.

743 Mr. Tracey: Thank you, Mr. Chairman. And, again, I appreciate the Commissions indulgence with  
744 my conflict in front of another body at the exact same time, zoom makes is easier but I still can't  
745 be in two places at once.

746 Chairman Hurd: But isn't it great that you didn't have to drive?

747 Mr. Tracey: I have made that drive before. So, yes, no land speed records were broken. As you  
748 alluded to Mr. Hurd, we spent a very long time discussing this project at the December meeting,  
749 so I don't intend to go over those items again. I think it is also worth noting that what the public  
750 would see from the exterior really isn't going to significantly change at all with the proposed  
751 revisions. There may be some windows moving to address new bedroom locations but the same  
752 architecture and all is being employed so I am not going to rehash that as well. There have been  
753 several changes, which Ms. Gray alluded to and I am just going to go over those. Hopefully fairly  
754 quickly. The first regards for the 1<sup>st</sup> floor apartments is you will recall the plan had 2 apartments  
755 on the first floor. These apartments were not infringing upon commercial frontage on Main  
756 Street but were instead located at the rear of the building facing the parking lot. We thought this  
757 was a nice amenity for folks that may have some ADA difficulty. While I recognize the elevators  
758 would handle that 1<sup>st</sup> floor living is obviously would be a benefit. That being said and noting that  
759 the City solicitor has concluded that 1<sup>st</sup> floor apartments are something that could be sought  
760 during this site plan approval process, we have, as Ms. Gray noted, removed those 2 apartments  
761 from the project so there are no 1<sup>st</sup> floor living arrangements now. That space, as she indicated,  
762 will be for a mix of commercial, office, and retail space, as well as, the amenities that we have  
763 shown you previously for the apartments. I think that is the answer to the first question. The  
764 second issue was on the density bonus. You will recall, our original plan was 33 units over a code  
765 permitted of 25. There was some discussion of whether or not this was a permissible element of  
766 site plan. The City Solicitor has reviewed the matter and issued his opinion and we have revised  
767 our project in accordance with his opinion, so we are seeking 15% or less of the density bonus  
768 with the new unit total as Ms. Gray noted of 28 units. The memo that was previously submitted  
769 to the board has a breakdown of those units that rs. Gray was mentioning. Again, as I noted, the  
770 architectural is remaining the same as we discussed at the last meeting and we showed at the  
771 last meeting. The design materials remain the same. None of that is being changed by this  
772 proposal. As Ms. Gray noted, we have previously requested 4 items of relief through site plan  
773 approval. We have eliminated the 1<sup>st</sup> floor apartments which eliminates that request and we  
774 reduced the density request that had been previously sought. We are now seeking 3 avenues of  
775 relief. The other 2 being the set back issues that we discussed at the last meeting. We went  
776 through the site plan criteria at the last meeting so I will not go through that again, except to  
777 note Commissioner Hurd that you had referenced the City's new energy code. As you noted, we  
778 are subject to the LEED standards for site plan approval because of the date on this plan was

779 submitted and we exceed that minimum level though such items as an electric car charging  
780 station, storm water management system on a site that was previously untreated for both  
781 quantity and quality and by adding infrastructure to the building to accommodate the use of solar  
782 panels. We are, however taking you up on your suggestion and we are exploring whether we can  
783 meet the new energy code. That's something that we will have an answer on before we get to  
784 council, but we believe there is a good possibility that we will be able to meet that new standard.  
785 One of the things were looking at is not just adding the infrastructure for that but adding the  
786 solar panels, as well. There are cost aspects and the like that go into that. Finally, the parking  
787 waiver, as Ms. Gray noted, has increased by one spot. We are taking a conservative approach to  
788 parking. We are parking the building as if it is going to be fully occupied by commercial uses, so  
789 as to avoid to come back if we had a lower number and then it turns out to be a different use. It  
790 is possible that we're asking for more than we need but we are being conservative by assuming  
791 the building 1<sup>st</sup> floor will be utilized completely by retail uses. Talking specifically about the  
792 impacts of the parking waiver. One thing that I wanted to note is that there was discussion about  
793 the loss spaces in Lot #4. One needs to remember that those spaces are not on City owned land,  
794 but my client's land and the City has had the benefit of the uses of those spaces for little or no  
795 rent for decades. That being said, while we are adjusting the parking spots that are available  
796 through this plan, the remaining space will be given to the city at no charge for an extended  
797 period of time. In addition, there were some discussion about the design of the parking lot. We  
798 met and consulted with the City Parking Department, Public Works, and the Fire Marshall, and  
799 the design of the parking behind our building. We had presented a few designs that created a  
800 few extra parking spots but the design that we chose that you see on the slide in front of you was  
801 the one that the City in particular, the Fire Department and Public Works folks wanted to see.  
802 They thought it provided the best traffic flow and emergency access throughout the lot. We will  
803 be making changes not only on our property, but on the property adjacent to us to fully  
804 implement the design that you see on this slide so that the parking lot will function in perpetuity.  
805 There was some discussion about whether the removal of the 1<sup>st</sup> floor living spaces on the  
806 property would have created any additional parking opportunities. The answer to that, really,  
807 was no because of the way the parking lot was laid out. There was also a desire from the Fire  
808 Marshall and Public Works, prior conversations to avoid column situations that would be needed  
809 to support the building above that area. In reality it wouldn't have created much, if any,  
810 additional parking. As Ms. Gray noted, the parking will be decoupled from the building such that  
811 new tenants to the building will not be given a parking space. This lot will be wholly and  
812 completely under of the control of the City and my understanding their loath to issue passes for  
813 this lot. Instead directing folks to different lots that these passes around the downtown area.  
814 To the extent, however, that visitors to the building or even tenants were utilizing these spaces,  
815 the city will be compensated at the full hourly rate for those uses. We did discuss that there  
816 currently 8 passes that are held by commercial tenants under their lease for employees. These  
817 passes, again to reiterate, do not or guarantee the spot for the holder they simply allow the use  
818 of the space free of charge, if one is available. They are not transferrable and, as I noted at last  
819 meeting, they will be evaluated in the next lease negotiations with each of the tenants. As the  
820 City suggested, we will also discuss with these tenants the possibility of moving some of these  
821 passes to a different lot. I think that is it in summarizing the changes. Again, I think the changes  
822 that we made, the evidence is continued desire to work with and positively respond to any  
823 comments that we receive from the City. We have adjusted our plan accordingly to do that.

824 Chairman Hurd: Alright, thank you very much. We will begin a round with Commissioner  
825 Silverman.

826 Commissioner Silverman: I have a question for Mr. Tracy. The Directors report on page 2  
827 references a 99-year lease agreement. Has that been entered into by your client?

828 Mr. Tracey: It hasn't been entered into, as of yet, but we do not object to it.

829 Commissioner Silverman: Okay, that was my question. Thank you.

830 Chairman Hurd: Alright, Commissioner Stine.

831 Commissioner Stine: Thank you. Just to be clear, what is on the screen is not the revised plan?  
832 Correct?

833 Mr. Tracey: It is not the revised layout of the interior of the building. The footprint of the building  
834 is the same. The parking is the same but that inside is being redesigned and I think we did submit  
835 the plan to the City to now show that is both common space for the apartments, as well as,  
836 additional commercial office retails.

837 Commissioner Stine: Okay, great. I just wanted to make sure. Thank you.

838 Mr. Tracey: Thank you.

839 Chairman Hurd: Okay, Commissioner Wampler.

840 Commissioner Wampler: Thank you. I have a couple of items that I am confused about that I  
841 would like to get cleared up. In our original package, the document dated April 14, 2020 on page  
842 10. There is an assessment of the parking spaces and on the next page, on page 11. It says  
843 "reviewed in this matter this project requires 159 spaces has 31 grandfathered spaces so that the  
844 parking waiver required is 128 spaces. That is significantly different from what we are looking at.  
845 So, could somebody rectify this for me?

846 Mr. Tracey: I will give you my comments to that Mr. Wampler than Ms. Gray can comment.  
847 There were additional revisions that needs be because of existing waivers that existed on the  
848 property for under prior agreements that had been entered into over the years and that is how  
849 the new number, the number that is before you now, was arrived at by taking those into  
850 consideration.

851 Commissioner Wampler: Okay, and one of the things that we are looking at is the front setback  
852 that should be 20 feet and we are looking at 12 feet instead. Do we know what the current set  
853 back of the buildings that are there that are going to be torn down? What is the current setback  
854 of those existing buildings? Do we know that?

855 Mr. Tracey: I think I saw Julien Pellegrini on the meeting. He's our civil engineer so he can  
856 answer. What I can tell you Mr. Wampler is, I believe we are further back from the sidewalk than  
857 the current building.

858 Commissioner Wampler: Okay, I thought, maybe, the request for the setback was to have the  
859 new building start where the old buildings are. They are no closer than the current building and  
860 it may, in fact, be further back.

861 Mr. Tracey: Correct. Yes, and I think the variances are related to the height of the building which  
862 is stepped back once you get to that upper floor.

863 Commissioner Wampler: Okay, thanks. That clears up my questions.

864 Chairman Hurd: Okay, Mr. Kadar.

865 Commissioner Kadar: All of the questions that I had, have already been asked by other  
866 Commissioners. I am happy to see that the 2 apartments on the ground floor are going to go. As  
867 far as the parking waivers are concerned, we will cross our fingers and hope that the project  
868 across the street yields additional parking spaces to compensate. I know that's not going to be  
869 dictatated but we will see. I am good. Thank you.

870 Chairman Hurd: Okay, I will just add, I also appreciate the applicant listening to our concerns  
871 and addressing those within the context of the opinion rendered by the Solicitor. And coming  
872 back, and basically, using the tabling time for good effort. Alright, do we have any further  
873 comments or questions from the Commissioners before we move to the motion. Okay.

874 Commissioner Wampler: Will, do we need public comment?

875 Chairman Hurd: No, again, so this item was tabled after public comment on the project. Because  
876 we basically couldn't move to the motion and approve the density without the opinion. So, we  
877 stopped at that point and that is the point at which we are picking up.

878 Commissioner Wampler: With regard to the motion, do we want one motion that would cover  
879 the special use, not the special use, but the subdivision, and also the parking waiver. Do we want  
880 separate motions?

881 Chairman Hurd: Mr. Bilodeau?

882 Solicitor Bilodeau: We would want separate motions. One for the project, one for the special  
883 use permit and one for the waiver.

884 Chairman Hurd: Now, I will correct you on that. The special use permit is not our purview  
885 because we are less than an acre.

886 Solicitor Bilodeau: Okay.

887 Hurd: so, the motion is included in the packet for completeness and for the Councils edification,  
888 but it is very clearly marked on mine that its not for Planning Commission.

889 Commissioner Wampler: Okay, so we are ready for the first motion.

890 Chairman Hurd: Right. Which is why we haven't had any discussion about the special use permit.  
891 Okay, Take it away, Secretary Wampler.

892 Chairman Wampler: Okay, I move that the Planning Commission recommend approval for the  
893 132-136 East Main Street major subdivision and site plan approval plan as shown on the Pelsa  
894 company site plan approval special needs permit and major subdivision plan dated August 5,  
895 2019 and revised on December 15, 2020 with the subdivision advisory committee conditions that  
896 was described in the November 24, 2020 Planning and Developing report and with the revisions.

897 Chairman Hurd: Director Gray, do we need a clarification of what revisions they are? Are they  
898 the applicant's revisions that you are referring to?

899 Director Gray: Yes, those are the applicant's revisions as submitted. Yes, Chairman Hurd.

900 Chairman Hurd: Because I was checking and it looks like those changes: the number of units,  
901 and such, has been reflected on the site plan that was submitted to us, that we are referencing.  
902 Okay. Should we restate that Secretary Wampler just to say with the applicants submitted  
903 revisions? Is that clear enough?

904 Commissioner Wampler: I reread the whole thing. Do you want me to read into it that "specific  
905 revisions which are that the number of units and the illumination? No, I think it is clear from the.

906 Chairman Hurd: I think it is clear.

907 Commissioner Wampler: Yes.

908 Commissioner Silverman: Mr. Chairman?

909 Chairman Hurd: Yes, Mr. Silverman.

910 Commissioner Silverman: I believe that those revisions are reflected in the December 28<sup>th</sup> report  
911 from Director Gray.

912 Chairman Hurd: Correct, which isn't referenced in this. We could reference the report.

913 Commissioner Silverman: I would like to see him reference the report.

914 Chairman Hurd: Absolutely.

915 Commissioner Wampler: Okay, so I will add at the end the revisions documented in the Director's,  
916 what was the date again?

917 Commissioner Silverman: The Directors December – let me flip my page here.

918 Chairman Hurd: it was December 28<sup>th</sup>.

919 Commissioner Silverman: December 28<sup>th</sup> report to the Planning Commission.

920 Commissioner Wampler: Okay, I will restate my motion.

921 Chairman Hurd: Absolutely, thank you.

922 Commissioner Wampler: I move that the Planning Commission recommend that City Council  
923 approval the 132-136 East Main Street major subdivision with site plan approval plan, as shown  
924 on the Pelsa Company site plan approval special needs permit and major subdivision plan dated  
925 August 5, 2019 and revised December 15, 2020 with subdivision advisory committee conditions  
926 as described in the November 24, 2020 Planning and Development report and with revisions  
927 documented in the Director's Report of December 28, 2020.

928 Chairman Hurd: Thank you. Do we have a 2<sup>nd</sup>?

929 Commissioner Silverman: I'll second that.

930 Chairman Hurd: Okay, any discussion on the motion? Alright, see none. We will move to the  
931 vote. Commissioner Stine.

932 Commissioner Stine: Aye.

933 Chairman Hurd: Thank you. Commissioner Wampler.

934 Commissioner Wampler: I vote aye.

935 Chairman Hurd: Thank you. Commissioner Kadar.

936 Commissioner Kadar: I vote aye.

937 Chairman Hurd: Commissioner Silverman.

938 Commissioner Silverman: Relying on the City Solicitors opinion on this particular property and  
939 the fact that it's a redevelopment of a rather unusual lot circumstance, I vote aye.

940 Chairman Hurd: Thank you. I concur with the statement of Commissioner Silverman and vote  
941 aye. Motion passes. Alright that takes us to the parking waiver motion.

942 Commissioner Wampler: I move that the Planning Commission approve the 67 spaced parking  
943 waiver for 132-138 East Main Street with the condition that the lease agreement for parking  
944 should be 99 years.

945 Chairman Hurd: Okay, thank you. Do we have 2<sup>nd</sup>?

946 Commissioner Kadar: I will second.

947 Chairman Hurd: Thank you. Any discussion on the motion? Alright, I see none. We will move to  
948 the vote. Commissioner Wampler.

949 Commissioner Wampler: I vote yes.

950 Chairman Hurd: Thank you. Commissioner Kadar.

951 Commissioner Kadar: Aye.

952 Chairman Hurd: Commissioner Silverman.

953 Commissioner Silverman: Aye.

954 Chairman Hurd: Commissioner Stine.

955 Commissioner Stine: Aye.

956 Chairman Hurd: And I vote aye, as well for the reasons stated in the Planning Director's Report.  
957 Alright.

958 Mr. Tracey: Thank you very much.

959 Chairman Hurd: Motion passed.

960 Chairman Hurd. Alright, thank you very much for joining us.

961 Mr. Tracey: Have a good evening.

962 Chairman Hurd: Alright. Safe drive.

963 Mr. Tracey: I have stairs to negotiate.

964 **6. Discussion of Planning Commissions: Rules of Procedure**

965 Chairman Hurd: That is my favorite online meeting joke - Drive safe. Anyway, we are moving  
966 now to item #6. Discussion of Planning Commissions: Rules of Procedure. This is mostly for me  
967 so, I will lead off the discussion. This is, quite honestly, based on our experience last month.  
968 When we tried to fit too much meeting into the meeting that we had. What I am trying to do  
969 here is to give the Planning Department procedures that they can follow consistently. That  
970 applicants are aware of and that everyone is basically clear on. So, that when we are  
971 programming the agenda, we don't put too much in there. That gives an adequate amount of  
972 time. But to kind of do that we have to start to layout some ground rules about how we build an  
973 agenda. In that process, I came to the realization that what we were really developing was the  
974 "Rules and Procedures" document is about how do we run a meeting. No, how do we run our  
975 meetings, specifically. The by-laws is kind of like how we run the Commission. What are the  
976 rules and responsibility of the Commission? We have put How to do motions into the by-laws  
977 because we were kind of developing those and that seemed like a thing that we wanted to cover.  
978 But in this process, I realized that the process of motions is really a meeting specific set of  
979 instructions and language. That's why you will see that chunk moved over, as well as, the  
980 language about amending the agendas really belongs in the "Rules and Procedures" because that  
981 is something we do in the meeting as opposed to when we are building the agenda. That is just  
982 the background. I will open the floor to add to the discussion. Starting with Commissioner Kadar.

983 Commissioner Kadar: I laud your attempt to try to control the meeting time. I looked over this  
984 and I have really no comments. Nice piece of work and let's hope that we can stick to some of  
985 these timings. I look at a major subdivision with site plan approval, special use permit required,  
986 parking waiver requested and we are talking about a 1 1/2 hour discussion which leaves about

987 30 minutes for the hellos, how are you, and have a good day - let's move on. So, I am willing to  
 988 give it a shot. It is a great attempt. I hope that it helps keep these meetings to 2 hours. Although,  
 989 I have been to some City Council Meetings that have gone to like 1:00 to 2:00a.m. which is  
 990 ridiculous. Hopefully it won't come to that. Thanks for your effort.

991 Chairman Hurd: Commissioner . Silverman.

992 Commissioner Silverman: Commissioner Kadar reflected my comments and I am in agreement  
 993 with what we are doing here. It is a living document and if we need to modify it, we will.

994 Chairman Hurd: Okay. Commissioner Stine.

995 Commissioner Stine: Just without having to go through word for word, were the items that were  
 996 taken out of the by-laws and moved to the procedural part of the document, they taken verbatim.  
 997 Just cut and moved over. No changes made at all to the language other than I see other language  
 998 that has been inserted into the by-law. Correct?

999 Chairman Hurd: Correct.

1000 Commissioner Stine: I am seeing things in red that are both being inserted and being removed.

1001 Chairman Hurd: Yes.

1002 Commissioner Stine: Okay, it's great. Thank you.

1003 Chairman Hurd: Okay, Commissioner Wampler.

1004 Commissioner Wampler: Yes, I agreed with everything that you've done there. Particular moving  
 1005 part of that motion. That makes a lot of sense and I am in favor of this.

1006 Chairman Hurd: Okay, thank you all. The one thing that I noted, under the adoption of by-laws  
 1007 the document that I was working from didn't have the last two items which is about amending  
 1008 the by-laws and the sole work product. I seem to recall that the PDF I had of them had those  
 1009 approved. I feel like those were in a previous version that we had approved. If we follow those  
 1010 rules, we will need to present that this month and approve them next. I think this falls under the  
 1011 submitting proposed amendments section. Then next month we would come back next month  
 1012 and review it. I am willing to say that we could edit that section and just propose amendments  
 1013 and approve them in the same day. I honestly can't remember why we put a month between  
 1014 things. Unless I was taking language from someone else's by-laws. I would welcome any  
 1015 discussion or conversation on that item in terms of approval.

1016 Commissioner Silverman: Weren't those provisions in there to allow public comment?

1017 Chairman Hurd: Oh, that could be.

1018 Commissioner Silverman: And staff comment.

1019 Chairman Hurd: Okay, then that makes sense to but a gap between them. I will open the floor  
 1020 to any public comment on the rules and procedures or the by-laws. Anything? Alright, I do not  
 1021 see anyone so closing public comment and bringing back to the dias. Alright, I take your point  
 1022 Commissioner Silverman. We could certainly say that we reviewed them, we've had comment,  
 1023 and they will come back next month for formal approval.

1024 Commissioner Silverman: I guess we could make an exception to the rules but unfortunately the  
 1025 rules haven't been approved yet. So, we are stuck.

1026 Director Gray: Chairman Hurd this is Director Gray. I see the harm in waiting another meeting.

1027 Chairman Hurd: Okay.

1028 Commissioner Wampler: I agree with that. I think we should put the approval on the agenda for  
1029 next meeting.

1030 Chairman Hurd: Okay. That is fine with me. In which case there is no action to be taken tonight  
1031 on these. Having had our discussion. It will come back to us next month for approval. Thank  
1032 you. That takes us to item 7, Review and Discussion of Planning Commission Submission  
1033 Deadlines.

1034 **7. Review and Discussion of Planning Commission Submission Deadlines**

1035 Hurd: Alright, Director Gray.

1036 Director Gray: Thank you, Chairman Hurd. Let me pull that up. I have 85 windows open. Okay.  
1037 I think Angie has put it up on the screen. We have purposed adding some additional language  
1038 and I understand when we sent the packet out, I thought the red line version went out. I  
1039 apologize that it didn't go out in red line. Angie, could you scroll down? Hopefully this version  
1040 has it in red line. Okay, great. We thought it would be helpful to articulate that because we have  
1041 had some applications of late from some applicants. I think this will be helpful to communicate  
1042 that applications are only ready to go the Planning Commission when all of the comments from  
1043 the subdivision advisory committee have been addressed. It's not a one-step process, in that, an  
1044 applicant submits an application and the subdivision Advisory Committee reviews the plan. You  
1045 get a SAC letter and then, you we get it back with the questions answers and it is ready to go to  
1046 Planning Commission. In rare cases that occurs, that is a rare case. We've had applicants along  
1047 the way be a little but baffled by that. Like, "I'm ready to go". Well, "No you're not". You're only  
1048 ready to go when all of the comments have been addressed. When all the comments have been  
1049 addressed that means that it meets code and all of the team members in the SAC, ther comments  
1050 have been addressed. Meaning that there are some things that are outside of code that still need  
1051 to be addressed before it goes to the Planning Commission. I thought this would be helpful to  
1052 add that language in there.

1053 Chairman Hurd: Okay. Thank you. I will just throw out one thing, which I just noted. So, this is  
1054 the difference between my document and that one. You had in the paper copy, you talked about  
1055 the Planning Commission meeting dates are depended on availability and guided by the Planning  
1056 Commissions rules and procedure. But it is, in fact, the by-laws that state the dates of the  
1057 meetings for the commission.

1058 Director Gray: So, we need to change that. We need to say that the Planning Commissions  
1059 meeting dates are depended upon availability.

1060 Chairman Hurd: Right.

1061 Director Gray: Per the discussion we just had.

1062 Chairman Hurd: Right.

1063 Director Gray: Even if an application is ready to go we had that situation this month. If an  
1064 application is ready to go, if the agenda is already full, then that application has to be pushed  
1065 forward to another future agenda item. So, the language needs to be changed from the agenda  
1066 and guided by the planning commissions by-laws.

1067 Chairman Hurd: Yeah.

1068 Director Gray: Okay, I can change the Commission by-laws. I will change that. Got it.

1069 Chairman Hurd: Commissioner Stine.

1070 Commissioner Stine: the document that I have stops where it says, going down beyond the red  
1071 changes. Which are fine and I have no issues with. Although, I do not understand the word  
1072 “further” after the word appendices. I don’t understand the use the word “further”. Where mine  
1073 ends, it says, “Contact PWWR in the project application meeting scheduled prior to submission.  
1074 That is still there, right? Projects may be considered as scheduled if the required state review is  
1075 not complete prior to Planning Commission Meeting. So, is this per Planning Commission rules of  
1076 procedure new language?

1077 Chairman Hurd: Looks to be, actually.

1078 Commissioner Stine: Okay, so per “Planning Commission Rules of Procedure” is that where you  
1079 are referring to changing that to by-laws?

1080 Chairman Hurd: No, it was at the end of the red section.

1081 Commissioner Stine: Okay.

1082 Chairman Hurd: I think that the language at the end, I thought we had, Did you just pull the  
1083 language in from the “rules and procedures” for that last bit, Director Gray? Or has that been  
1084 there?

1085 Director Gray: Yes, I pulled that in. That is new.

1086 Commissioner Stine: Do we need to change it there as well, Chairman Hurd? That is my question.  
1087 It refers to the rules of procedure.

1088 Director Gray: All that is down there.

1089 Chairman Hurd: No

1090 Director Gray: I apologize. That was there.

1091 Chairman Hurd: Just quickly checking.

1092 Commissioner Stine: on the version that I have, it’s the last full sentence is not on this version  
1093 that was in the packet.

1094 Chairman Hurd: that is correct. I don’t have that either. That language does come from the  
1095 “rules of procedures”. It comes in the section of public comment. It was written to push back  
1096 on applicants who occasionally would bring us stuff the day of the meeting. And, drop a thing in  
1097 front of us and want this considered, too. We are like, no. It is the week prior.

1098 Commissioner Stine: I just wanted to make sure that you didn’t need to change it that “Rules of  
1099 Procedures” in the additional language in the by-laws.

1100 Chairman Hurd: That one is correct. That one is also, new language. Yes.

1101 Commissioner Stine: Okay, other than the word “further” it looks great.

1102 Chairman Hurd: Are you suggesting removing he word “further”?

1103 Commissioner Stine: I think so. It is a tad confusing. Further projects.

1104 Chairman Hurd: I think you are right. I think projects only. I like that. Alright, Commissioner  
1105 Wampler.

1106 Commissioner Wampler: I am fine with all of this.

1107 Chairman Hurd: Okay, Commissioner Kadar.

1108 Commissioner Kadar: I am good. No comments.

1109 Chairman Hurd: Alright, Commissioner Silverman.

1110 Commissioner Silverman: I have a question for the Director, Mary Ellen.

1111 Commissioner Silverman: in the past when we have not had a piece of paper in front of us. We  
1112 have had a verbal assurance that it has something from the state that it's been approved. Is that  
1113 still considered good enough? Or do we have to have absolutely everything in hand before we  
1114 can move?

1115 Director Gray: We rely, regarding the State approvals, it is usually in the purview of the public  
1116 works and resources Department. We rely on their judgement regarding that because there are  
1117 some approvals that that a lot longer to get in writing than others. Like a letter of objection from  
1118 DelDot for example. Sometimes that is just not going to happen before it gets to Planning  
1119 Commission. The Public Works staff is in contact with that department at DelDot and they are  
1120 assured that the project is going to get a letter of no objections, for example. So, they are  
1121 comfortable moving forward and signing off on it going to Planning Commission. They usually  
1122 had that in their SAC comment. Stating that a letter of no objection will be submitted here shortly.

1123 Commissioner Silverman: Okay, this directed to Mr. Bilodeau. By putting this verbiage in here  
1124 of final revisions, we are not setting ourselves up for circumstance where the promissory things  
1125 where we have to rely on other departments. Yes, we are waiting for the letter of no objection.  
1126 If someone wanted to come in and be a spoiler for an applicant, they can say, "show us a letter"  
1127 are we putting ourselves in that circumstance?

1128 Solicitor Bilodeau: Where is the word, "final" Commissioner?

1129 Commissioner Silverman: It the heading, "Final Revisions and Responses to Advisory Committee  
1130 Comments". And there is a date, there is a date. Go back up to the top, Angela. There we go.  
1131 For example, the final for the March meeting. The final drop dead date is January 4th. Am I  
1132 reading this correctly?

1133 Chairman Hurd: No, January 4<sup>th</sup> is the final for the February meeting.

1134 Commissioner Silverman: Oh, okay. If that letter that has been promised, public works is satisfied  
1135 that it is coming for no objection, but it is not in hand. Is that a problem for the applicant if  
1136 somebody really wants to cause them problems?

1137 Chairman Hurd: I guess, I interpret this as these are applicant submitted documents. So, these  
1138 would be final revisions of the applicant's documents in response to the SAC comments. Not  
1139 related to state approvals.

1140 Commissioner Silverman: Okay, just so we are clear on that.

1141 Solicitor Bilodeau: Thank you, Commissioner and Chairman. That is exactly what I was going to  
1142 say. We could put that at final revisions for the applicants documents. You want to include that  
1143 in that heading. Just to make it clear.

1144 Commissioner Silverman: I am harking back to the mess with the power plant on the STAR site.  
1145 Where that shuttlecock was lobbed back and forth a number of times.

1146 Solicitor Bilodeau: it is always to have a badminton reference.

1147 Chairman Hurd: Okay, any further comments or questions? Alright, I will open the floor to public  
1148 comment on the Planning Commission submission deadlines. Seeing none. Closing public  
1149 comment. I am bringing it back to the table. I think with a small few edits, I think we are looking  
1150 the document again, like with the by-laws, this is something that we can approve to help support  
1151 the Planning Department to operate in a consistent manner. So that there is a defined process  
1152 and guidelines. Which will just make everybody's life easier because there is not questions about  
1153 what is enough or when is it done. It is here, this is what's it's done and this is when it is ready  
1154 to go. Alright, any final questions or thoughts? Alright, Secretary Wampler.

1155 Commissioner Wampler: Yes, I move that the Planning Commission approve the proposed line  
1156 revision the 2021 Planning Commission submission deadlines as outlined in Director's Gray  
1157 December 29, 2020 and revised during the Commission Meeting of January 5, 2021.

1158 Chairman Hurd: thank you, do I have a second?

1159 Commissioner Silverman: I will second.

1160 Chairman Hurd: Thank you. Any discussion of the motion.

1161 Commissioner Silverman: Yes, when the final draft comes out, we need to have very clearly an  
1162 approval date on the bottom. So, everybody has the same document.

1163 Chairman Hurd: Okay, the date of approval. Anything else? Alright, moving to the vote.  
1164 Commissioner Wampler.

1165 Commissioner Wampler: Aye.

1166 Chairman Hurd: Commissioner Kadar.

1167 Commissioner Kadar: Aye.

1168 Chairman Hurd: Commissioner Silverman.

1169 Commissioner Silverman: Aye.

1170 Chairman Hurd: Commissioner Stine.

1171 Commissioner Stine: Aye.

1172 Chairman Hurd: and I am Aye, as well. Approved. I am going to take the Chairs prerogative to  
1173 extend our meeting to 9:30p.m. so that we can close up the last few items of our agenda. We  
1174 will start with the informational items which would be today consistent with the Planning  
1175 Director's Report.

1176 Director Gray: This is Director Gray. I do not have a Director's report this evening, sir.

1177 Chairman Hurd: Oh, okay.

1178 Director Gray: So, I will pass on that. I apologize, I did not prepare one this evening. I hang my  
1179 head.

1180 Chairman Hurd: Okay. Any new business for discussion by the Planning Commissioners? Okay,  
1181 we are moving on the general public comment. I will just sort of generally note, as noted in our  
1182 rules of procedures. General public comment is for commentary on items not on the agenda but  
1183 are related to the work of the Planning Commission. I have one person signed up which is Chris  
1184 Locke. Chris you have 5 minutes. Chris are you there?

1185 Commissioner Silverman: I see that Mr. Locke is still signed in.

1186 Chairman Hurd: I see that he is signed in, but I don't hear him. Mr. Locke are you prepared for  
1187 comment? He just sent me a note saying he is trying to comment. Chris if you are having trouble  
1188 signing in with your computer you can dial in with your phone.

1189 Commissioner Silvermand: Mr. Chairman, do you have the phone number for him if he can hear  
1190 us.

1191 Chairman Hurd: I certainly can read that out. It is 872-240-3311. The access code is 166197893.

1192 Commissioner Silverman: I believe Mr. Locke originally signed in with us. So, he has been waiting  
1193 the entire evening.

1194 Chairman Hurd: the phone # is It is 872-240-3311 and the access code is 166197893. When you  
1195 are on the phone you press \*66 to unmute the line. Commissioner Stine: They need to use the #  
1196 sign after.

1197 Chairman Hurd: Is that you, Chris?

1198 Chris Locke: It is me. Can you hear me?

1199 Hurd: We can hear you.

1200 Chris Locke: Okay. Thanks so much, I appreciate your patience. I do not know what is wrong  
1201 with my computer.

1202 Chairman Hurd: I don't know either but that is part of making sure that we have adequate  
1203 comment and connection to the public.

1204 Chris Locke: Exactly. Mr. Chairman, thank you for this time. My first comment would be that I  
1205 wished public comment was in the beginning of the meeting rather than the end of the meeting.  
1206 But I will say what I need to say and be done with it. Though I recognize the City Solicitor's opinion  
1207 in the operation of the Planning Commission, it does not mean that the opinion can't be debated  
1208 in the halls of public discussion. When the items were tabled from the last meeting, Robert's  
1209 Rules states that when the item is tabled it can be opened to the public for further discussion.  
1210 Especially if the public issue that was tabled wants to speak about the issue which caused the  
1211 tabling in the first place. This is a plethora of issues have been debated by this governing body  
1212 in the past. Members of the Commission has the right to hear alternative views when  
1213 deliberating the issues before them. The refusal to allow us, and us being a litany of developers  
1214 here in the City of Newark. Matt Dutt, Jeff Lang, myself, John Mascari from Karins and Associates,  
1215 Kevin Mayhew, Angela Tsionas , and Mark Ziegler. Combined have over 200 years of  
1216 development experience here in the city. The refusal to allow us the right to debate is very  
1217 unfortunate and it denies a robust conversation about this gigantic opinion that the City Solicitor  
1218 gave to all of you. Which will fundamentally change development in the City and the downtown  
1219 area. It will throw the code and the Board of Adjustment to the trash heap of history. I hope in  
1220 the future we can have this debate so that we can truly see what is in the best interest of the  
1221 City. And I thank you all for your time and again, I apologize for the inconvenience that I have  
1222 caused you.

1223 Chairman Hurd: No worries. Alright, thank you. I don't usually comment the public, but I want  
1224 to just note. We are not specifically follow Roberts Rules of Order here. We follow the rules  
1225 and procedures that we have adopted. I want to make sure that is clear to the general public  
1226 and all. Is there anyone else wishing to speak in the general public comment time? Alright, seeing  
1227 none. Closing that. Seeing no objections, I will say that we can be moved acclamation. We are  
1228 in adjournment. Thank you everyone.

1229 ajourned at 11:00 p.m.